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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,859	10/12/2006	Sabrina Morel	05-656	6063

34704 7590 03/02/2010

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EXAMINER	
HUSON, MONICA ANNE	

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
03/02/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/551,859	MOREL ET AL.	
	Examiner	Art Unit	
	MONICA A. HUSON	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 December 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-23,26-33 and 35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-23,26-33 and 35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to the Amendment filed 8 December 2009.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18-23, 26-33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Safian, in view of Robbins, III (U.S. Patent 4,816,093) and Schmidt et al. (U.S. Patent 5,407,629), further in view of Agur et al. (U.S. Patent 6,106,762). Regarding Claims 18, 19, 32, and 35, Safian shows that it is known to carry out a method of producing an air inlet in a multiwalled container having a rigid outer wall and a flexible pocket inside in association with a withdrawl member (Abstract; Column 3, lines 50-55; pump=withdrawl member), such a container being obtained by extrusion blow molding (Column 2, lines 60-63) formed of a main rigid outer layer and a secondary inner flexible layer, the layers having no adhesion between them so as to delaminate without difficulty (Abstract), wherein a sprue is removed and an air inlet is created by making a pinch zone by a first shearing operation which crushes the two walls together and creates a sprue protrusion (Column 3, lines 23-24; anvil is analogous to blowing iron; it is interpreted that the layers will implicitly being condensed together during the cutting operation), and a second operation of cutting off the protrusion by means of a cutting tool after opening of mold (Column 3, lines 34-49; note that this cutting operation also causes pinching). Safian does not show the outer and inner layers each consisting of multiple layers. Schmidt et al., hereafter "Schmidt," shows that it is known to carry out a method of making a multilayer parison, wherein the inner and outer layer consists of several strata subassemblies being able to delaminate from

each other (Figure 8, elements 36, 37=inner layer; element 38=core; elements 39, 40=outer layer; Figures 13, 14). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Schmidt's layer arrangement during Safian in order to specifically tailor the layers according to customer/beverage needs (see Schmidt, Column 1, lines 51-60; Column 2, lines 4-16; Column 5, lines 35-58). Safian also does not show reworking the article. Robbins, III shows that it is known to rework a blow molded article if desired (Column 2, lines 7-31). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Robbins, III's disclosure to modify the article of Safian in order to ease filling or modify the article enclosure (see Robbins, III, Column 2, lines 16-31). Safian shows the process, but he does not show using additives in his parison layers. Agur et al., hereafter "Agur," show that it is known to carry out a method of making a multilayer articles wherein a stearate lubricating agent is added to one of the layers (Column 7, lines 4-19, 23-25; Column 8, lines 6-20; Column 20, lines 48-56; it is interpreted that since the stearate is added generally to the preform, it would be present all zones). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Agur's stearate compounds in Safian's molding composition in order to take advantage of all of stearate's material enhancing capabilities.

Regarding Claim 20, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, but he does not show the location of the knives. Robbins, III shows that it is known that knives used in a first shearing operation are integrated into the mold (Figures 4, 5; note that "integrated into" is not the same as "integral to"). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Robbins, III's integrated knives during Safian's molding process in order to quickly cut the parison.

Regarding Claim 21, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including a method wherein the second cutting operation of the protrusion is carried out by a pincher (Figures 7-10, elements 62+56+58+60 cooperate to pinch off protrusion, as shown in Figures 9, 11), meeting applicant's claim.

Regarding Claim 22, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including alluding to a protrusion at the bottom (Figures 5, 5A), but he does not specifically show the formation of the protrusion at the bottom of the container. Robbins, III shows that it is known to carry out a method of making a multilayer container comprising making a protrusion in a bottom portion of the container (Figure 6, 8-10). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to make the protrusion at the bottom of the container to form Robbins, III's protrusion at the container bottom during Safian's molding process in order to satisfy particular customer configuration requirements.

Regarding Claim 23, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including a method comprising making the protrusion at the top portion of the container in a zone of the tip (Figure 8: protrusion=parison above cutter 56), meeting applicant's claim.

Regarding Claim 26, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, but he does not disclosed the claimed layer materials. Agur shows that it is known to carry out a method of making multilayer articles, wherein the main layer is polypropylene (Column 6, lines 41-49), and an inner layer is a polyethylene (Column 7, lines 36-37). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Agur's layer arrangements during Safian's molding process in order to satisfy customer specifications relative to the material capabilities.

Regarding Claim 27, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including a method comprising forming the parison so that the outer layer is the majority of the thickness of the parison, and the inner is the minority of the thickness of the parison (Abstract; Column 4, lines 56-60), meeting applicant's claim.

Regarding Claim 28, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including a method wherein the inner layer is pinched to the outer layer, preventing the layers from delaminating during formation but causing a delamination of the layers during use of the container (Column 1, lines 50-67). Safian

does not specifically show a two half-shell mold configuration. Robbins, III shows that it is known that blow molds comprise two half-shells (Figure 3). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Robbins, III's mold configuration in order to facilitate article ejection.

Regarding Claim 29, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including a method further comprising providing a pump without air inlet that is not hampered by collapsing of the inner layer (Figure 14; Column 3, lines 50-67), meeting applicant's claim.

Regarding Claim 30, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, including a method further comprising providing a bottom of the mold with a shape optimized so as to assist with the desired shape/function of the molded article (Column 1, lines 58-67).

Regarding Claim 31, Safian shows the process as claimed as discussed in the rejection of Claim 30 above, including a method wherein the bottom mold includes two diametrically opposed appendages intended to form support studs of the container in order to provide stability to the container with the dished bottom (Figure 5: legs at outer edges oppose each other diametrically/radially and provide support to the container with a dished/raised bottom), meeting applicant's claim.

Regarding Claim 33, Safian shows the process as claimed as discussed in the rejection of Claim 18 above, but he does not show the use of fillers in his outer layer. Agur shows that it is known to carry out a method wherein fillers are used in the preform main layer (Column 6, lines 54-67; Column 7, lines 1-21; Column 20, lines 48-54). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Agur's fillers in Safian's molding compositions in order to take advantage of all the filler's enhancing capabilities.

Response to Arguments

Applicant's arguments filed 8 December 2009 have been fully considered but they are not persuasive.

Applicant contends that Agur does not show the addition of stearates to the zone of a protrusion. This is not persuasive because, as noted above, it is interpreted that since the stearate is added in general to the preform, it would be present in all zones, including any protrusion zones. It is maintained that the teachings of Safian, Robbins III, Schmidt, and Agur properly combine to suggest the instant claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA A. HUSON whose telephone number is (571)272-1198. The examiner can normally be reached on Monday-Friday 7:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Monica A Huson
Primary Examiner
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